

**Eastbourne Borough Council**  
**ANTI FRAUD AND CORRUPTION POLICY**

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**ANTI FRAUD AND CORRUPTION POLICY**

Title	Anti Fraud and Corruption Policy
Version	3
Date	Reviewed 31/10/14
Approved By	Audit and Governance Committee
Next Review	October 2015
Author	Internal Audit Manager

**Contents**

Introduction	<a href="#"><u>2</u></a>
Culture	<a href="#"><u>4</u></a>
Prevention	<a href="#"><u>6</u></a>
Detection and Investigation	<a href="#"><u>9</u></a>
National Fraud Initiative	<a href="#"><u>10</u></a>
Covert Surveillance/Covert Human Intelligence Source	<a href="#"><u>11</u></a>
Fraud Hotline	<a href="#"><u>11</u></a>
Redress	<a href="#"><u>11</u></a>
Training	<a href="#"><u>11</u></a>
Conclusion	<a href="#"><u>12</u></a>
Bribery Act	<a href="#"><u>13</u></a>
Whistleblowing Guide	<a href="#"><u>20</u></a>
Anti-Money Laundering Guide	<a href="#"><u>27</u></a>
Anti-Money Laundering Reporting Forms	<a href="#"><u>32</u></a>

## **Introduction**

Eastbourne Borough Council (the Council) has a responsibility to protect the public funds it administers together with its assets. In administering its responsibilities, the Council is set against fraud and corruption, whether it is attempted on the Council from the outside or inside. It is committed to an effective Anti Fraud and Corruption Policy designed to:

- Encourage prevention
- Promote detection
- Identify a clear pathway for investigation.

The Council is subject to external scrutiny of its affairs by a number of bodies who also have an interest in its policy to combat fraud and corruption. These organisations include:

- Local Government Ombudsman
- Audit Commission and External Auditor
- The Public/Council Tax Payers – Annual Inspection of the Accounts;
- The Public/Service Users – through the Council's Complaints Procedures
- Central Government Departments and Parliamentary Committees
- H.M. Revenues and Customs

As part of External Audit's statutory duties they are required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.

The Council's Anti Fraud and Corruption Policy is based on a series of comprehensive and inter-related procedures designed to frustrate any attempted fraudulent or corrupt act. These cover:

- Culture (Section 1)
- Prevention (Section 2)
- Detection and Investigation (Section 3)
- Training (Section 4)
- Bribery Act 2010
- Whistleblowing Guide (Appendix A).
- Anti-money laundering Guide (Appendix B)

## Definitions

Fraud – a person is guilty of fraud if he

- 1)a) dishonestly makes a false representation, or
- b) dishonestly fails to disclose to another person information which he is under a legal obligation to disclose, or
- c) occupies a position in which he is expected to safeguard or not to act against the financial interests of another person and dishonestly abuses that position.

AND

- 2) intends to make a gain for himself or another or to cause loss to another or expose another to the risk of loss.

Theft – a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

Corruption - dishonest or fraudulent conduct by those in a position of responsibility, typically involving bribery

Bribery - as giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

## **1.0 Culture**

### **1.1 Commitment to Corporate Governance and Organisational Values**

The Council is committed to promoting an environment of effective corporate governance (i.e. the systems by which it is directed and controlled) through the openness, integrity and accountability of its Members and officers. These individuals are expected to lead by example by adhering to legally sound and honest procedures and practices.

The Council also expects that the people and organisations (i.e. suppliers, contractors, and service providers) that it comes into contact with will act towards the Council with integrity and without thought or actions involving fraud and corruption.

The Council has made a commitment to achieving these standards through compliance with its agreed Organisational Values. The Anti Fraud and Corruption Policy and other corporate information already available in the Constitution including Rules of Procedure and Codes and Protocols will therefore underpin the Council's attempt to:

- Conduct its business with integrity and impartiality whilst remaining open and accountable
- Make the most efficient and effective use of public resources
- Encourage co-operative and partnership working
- Consult and listen to local people in its planning and decision making activities
- Support, value and develop staff enabling them to continuously improve the quality of services
- Project clear and positive leadership.

### **1.2 Whistleblowing**

The Council's Officers are encouraged by Financial Procedure Rules, Codes of Conduct and other protocol documents to raise any concerns involving fraud and corruption where they are associated with the Council's activities.

Officers are aware that such concerns will be treated in confidence and properly investigated, although anonymity cannot always be guaranteed. Detailed guidance regarding

"whistleblowing" under the Public Interest Disclosure Act 1998 is provided to all Officers as Appendix A to this document.

Members of the public can report any concerns through the same channels as Officers or by additional means including the official complaints procedure, the Fraud Hotline or by contacting their elected Member or the External Auditor.

### **1.3 Benefit Fraud**

As of November 2014 the responsibility for investigation of Benefit Fraud moved to the Department of Work and Pensions.

### **1.4 Anti Money Laundering**

Our policy is to do all we can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant. Detailed guidance is given at Appendix B to this document.

The Internal Audit Manager is responsible for providing training and advice to relevant officers on compliance with Money Laundering legislation.

### **1.5 Bribery and Other Fraud and Corruption**

Management is responsible for ensuring that allegations of bribery or other fraud or corruption are dealt with urgently by referring them immediately to the Chief Executive, Statutory Chief Finance Officer (Section 151 Officer) and the Internal Audit Manager.

Internal Audit or the relevant manager (if within the Disciplinary Procedure) will conduct an investigation ensuring that the Chief Executive and Statutory Chief Finance Officer (Section 151 Officer) are kept informed. Consequently Internal Audit and Management will, if necessary:

- Notify the Council's Insurance Officer
- Implement the Council's Disciplinary Procedure

- Consider possible Police action
- Notify the External Auditor
- Notify the Leader of the Council

Persons who defraud the Council or who are corrupt will be dealt with swiftly and firmly. Likewise perpetrators of unfounded malicious allegations will be dealt with under the Disciplinary Procedure.

The Council does however recognise that anyone being investigated for fraud or corruption could have serious personal difficulties that may have lead to the offence. Members of staff can therefore obtain access to advice and support from the Council's Human Resources Section.

## **2.0 Prevention**

### **2.1 The Role and Responsibilities of Employees**

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. Where references are requested, the candidate's suitability for the post needs to be in accordance with the Person Specification.

The Disclosure and Barring Service (DBS) is able to provide access to criminal record information in respect of candidates for certain sensitive areas of work.

In order to make use of this facility, managers must state on the Person Specification that the post is exempt under the Rehabilitation of Offenders Act 1974 and request Human Resources to seek disclosure from the DBS. Further advice on this procedure can be obtained from Human Resources.

Officers of the Council are expected to follow any Code of Conduct related to their personal Professional Association and also abide by the Council's Code of Conduct for Employees which sets out the Council's requirement on personal conduct. This Code forms part of the Council's Corporate Personnel Standards Handbook and is referred to and attached to all Contracts of Employment.

The Council's induction programme is aimed at ensuring that new staff are familiar with the Code of Conduct, the implication of non-compliance and the declaration of conflicts of interest.

The Council has in place Disciplinary Procedures for all categories of officer.

The role that appropriate officers are expected to play in the Council's framework of internal control will feature in induction and re-induction procedures.

Officers are reminded under the Council's Rules of Procedure that they must declare to the Head of Paid Service any pecuniary (monetary) and non-pecuniary interests in a contract in accordance with Section 117 of the Local Government Act 1972. Declarations are open to the inspection of any Member of the Council during office hours.

## **2.2 The Role of Elected Members**

As elected representatives, all Members have a duty to citizens to protect the Council from all forms of abuse. This is done through the Anti Fraud and Corruption Policy and compliance with the National Code of Conduct for Members, the Council's Rules of Procedure and other relevant legislation.

Elected Members sign to the effect that they have read and understood the National Code of Conduct when they take office. These conduct and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests.

## **2.3 Conflicts of Interest**

Both Members and employees must ensure that they avoid situations where there is potential for a conflict of interest. Such situations can arise with externalisation of services, tendering and planning and land issues for example. Effective role separation will ensure that decisions made are seen to be based on impartial advice and avoid questions about improper disclosure of confidential information.

## **2.4 Internal Control Systems**

The Council has Rules of Procedure in place that provide a lead and requirement on officers, when dealing with the Council's affairs, to act in accordance with best practice.

The Statutory Chief Finance Officer (Section 151 Officer) has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements of the Council's financial affairs.

Accordingly, the Statutory Chief Finance Officer (Section 151 Officer) has developed Financial Codes of Practice and Accounting Instructions which underpin Financial Procedure Rules and outline the system, procedures and responsibilities of Officers in relation to the Council's financial activity. The Statutory Chief Finance Officer (Section 151 Officer) also maintains a Head of Profession role within the Council and, through this, exercises, amongst other things, a quality control on financial administration.

The Council has developed, and is committed to continuing with, systems and procedures that incorporate efficient and effective internal controls. This includes adequate separation of duties to ensure that error or improprieties are prevented. Under Financial Procedure Rules it is required that Heads of Service ensure that such controls, including those in a computerised environment, are properly maintained and effective, and this would include that they are documented. The Council's Internal Audit Service independently monitors the existence, appropriateness, and effectiveness of these internal controls.

## **2.5 Working with Others**

The Council encourages the exchange of information with other organisations in respect of fraudulent and corrupt activities. These organisations include:

- The Police
- The Audit Commission
- The Chartered Institute of Public Finance and Accountancy
- Government Departments
- East Sussex Finance Officers Association
- Society of District Council Treasurers



- Sussex Audit Group (13 authorities)
- Sussex Information Systems Sub Group
- National Anti Fraud Network (NAFN)
- Other Local Authorities and Outside Agencies.
- National Fraud Initiative (NFI) *for data matching*

This collaboration provides a base for combating potential criminal activity of a fraudulent nature against this and other public sector organisations.

### **3.0 Detection and Investigation**

Internal control systems and other preventative measures provide indicators of fraudulent activity and, to some degree, these same procedures deter fraud. In order to augment these checks the Internal Auditors will ensure that their profile within the Council is maintained at a very visible level.

It is the responsibility of Senior Heads of Service, Heads of Service and their managers to prevent and detect fraud and corruption. Nevertheless, it is often the alertness of employees and the public to indicators of fraudulent activity that enables detection to occur and the appropriate action to take place. However, despite the presence of internal controls, it should be recognised that many frauds are discovered by chance or “tip off” (whistleblowing). Consequently the Council has put procedures in place which will enable such information to be properly dealt with. These are shown within the Whistleblowing Guide that forms Appendix A of this policy document.

A Corporate Fraud team has been set up to detect and investigate instances of corporate fraud. Corporate fraud focuses on areas of fraud risk outside of Housing Benefits. These include Housing Tenancy, Single Person Discount, Procurement, Grants, Employee, Insurance and Right To Buy Fraud. By proactively looking for fraud in these areas the Council is able to demonstrate that it is protecting public money. Other areas of counter fraud work will also come under this team, including work on the National Fraud Initiative.

In accordance with the Regulation of Investigatory Powers Act (RIPA) 2000 cases of fraud requiring specific investigation processes, namely direct or covert surveillance, will be properly documented, authorised and reported to the Monitoring Officer.

Any investigation undertaken by Internal Audit and the Corporate Fraud team, or other appropriate Officers, must comply with codes of practice and other regulated powers. All relevant interviews and gathering of evidence must be conducted in accordance with the Police and Criminal Evidence Act 1984, the RIPA 2000, the Human Rights Act 1998 and the Criminal Procedure and Investigations Act 1996.

The Council's Disciplinary Procedures will be used where the outcome of an audit investigation indicates improper behaviour.

Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determines whether a prosecution will be pursued. Referral to the Police is a matter for the Internal Audit Manager, in consultation with the Chief Executive, and relevant Head of Service. Referral to the Police will not prohibit action under the Disciplinary Procedure. External Audit also has powers to independently investigate fraud and corruption, and the Council can use their services for this purpose too. Any cases of corruption or fraud over £10,000 must be reported to the external auditors (on an AF70 form).

## **4.0 National Fraud Initiative**

The National Fraud Initiative is a biennial data matching exercise carried out by the Audit Commission. Data sets are sent to the Audit Commission who match data records held by one organisations to records held by the same or another organisation. This data matching allows potentially fraudulent claims and payments to be identified. Further investigation can be made into the matches produced. The Audit Commission requires the Council to participate in this exercise to assist in the prevention and detection of fraud. The use of personal data is carried out under the Commission's powers in Part 2 of the Audit Commission Act 1998 and therefore does not require the consent of the individuals concerned under the Data Protection Act 1998.

## **5.0 Covert Surveillance/Covert Human Intelligence Sources**

The Regulation of Investigatory Powers Act 2000 (RIPA) was introduced to provide a statutory framework for certain investigative activities to ensure that they comply with Article 8 of the Human Rights Act.

The use of powers under RIPA are laid down in the Council's RIPA policy.

## **6.0 Fraud Hotline**

The Corporate Fraud team will maintain a Fraud Hotline to enable internal and external reports of suspected fraudulent activity to be made. The free fraud Reporting hotline number is: 0800 731 7039. Reports can also be made in writing and online both from the internet and the intranet.

## **7.0 Redress**

The Council will refer to Legal all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets under the Proceeds of Crime Act 2002.

Where an overpayment arising from fraud or other reasons is identified the Council will take steps to recover the resultant debt, including taking action in the Civil Court. If necessary this will be in addition to any sanction it, or the Criminal Courts, may impose in the respect of fraud cases.

## **8.0 Training**

The Council recognises that the continuing success of its Anti Fraud and Corruption Policy will rely on the effectiveness of programmed training and responsiveness of Members and Officers throughout the organisation.

To facilitate this, appropriate provision has been made via induction and refresher training for officers involved in internal control systems to ensure that they are fully aware of their

responsibilities and duties. Specialist training will also be available to certain Members and officers.

## **9.0 Conclusion**

The Anti Fraud and Corruption Policy identifies that the Council has put into place procedures which will assist in the prevention, detection and investigation of fraud and corruption.

The Council will maintain a continuous overview of the arrangements through its officers, particularly the Statutory Chief Finance Officer (Section 151 Officer) via Internal Audit, the Constitution including Rules of Procedure and Codes and Protocols together with Accounting Instructions. This Policy will be subject to review by Internal Audit annually or earlier if necessary to ensure that it is kept up to date.

The Audit and Governance Committee will, as part of its terms of reference, review the effectiveness of anti fraud and corruption arrangements. The Policy will be regularly reviewed by the Committee and any issues arising from concerns raised which will be reported by the Internal Audit Manager.

## **BRIBERY ACT 2010**

### **Policy Statement - Anti Bribery**

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance as “business as usual”, rather than as a one-off exercise.

### **Objective of this policy**

This policy provides a coherent and consistent framework to enable the organisation’s employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the organisation’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the organisation operates, in respect of the lawful and responsible conduct of activities

### **Scope of this policy**

This policy applies to all of the organisation’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the organisation, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

### **This organisation's commitment to action**

This organisation commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to all employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contacts to prevent bribery.

### **Bribery**

Is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

### **The Bribery Act**

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)

- failing to prevent bribery (section 7)

The Bribery Act 2010

([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1))

makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

### **Are we a “commercial organisation”?**

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.”

We are, therefore, a “commercial organisation”.

### **What are “adequate procedures”?**

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

### **Proportionate procedures**

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces

and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

### **Top level commitment**

The top-level management are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

### **Risk Assessment**

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery and on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

### **Due diligence**

The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

### **Communication (including training)**

The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

### **Monitoring and review**

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

**This organisation is committed to proportional implementation of these principles.**

### **Penalties**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both



- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

### **Bribery is not tolerated**

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

### **Facilitation payments**

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

### **Gifts and hospitality**

This policy is not meant to change the requirements of our Code of Conduct concerning gifts and hospitality.

### **Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a

corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery.

Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

### **Staff responsibilities**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All staff are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

### **Raising a concern**

This organisation is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. Please refer to the Whistleblowing Guide (Appendix A) and determine your favoured course of action. Preferably the disclosure will be made and resolved internally. Secondly, where internal disclosure proves inappropriate, concerns can be raised with the regulator (e.g. external auditor). Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact Jackie Humphrey, Internal Audit Manager either by phone on (41)5925 or by email at [jackie.humphrey@eastbourne.gov.uk](mailto:jackie.humphrey@eastbourne.gov.uk) or Louise Powell, Corporate Fraud Investigations Manager either by phone on (41) 5340 or by email at [louise.powell@eastbourne.gov.uk](mailto:louise.powell@eastbourne.gov.uk).

## Appendix A

# **WHISTLEBLOWING GUIDE**

FOR  
EMPLOYEES OF  
EASTBOURNE BOROUGH COUNCIL

## **Whistleblowing Guide**

### **1.1 Statement of Commitment**

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, employees may feel it would be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to the highest possible standards of openness, propriety and integrity. In line with that commitment, staff and others with serious concerns about unlawful conduct, financial malpractice or dangers to employees, the public or the environment are encouraged to come forward and voice those concerns. This Guide makes it clear that staff can do so without fear of reprisals and is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.

The Whistleblowing Guide covers all employees of the Council including agency staff, home workers, trainees and contractors.

### **1.2 Aims and Scope**

The Whistleblowing Guide aims to:

- Provide avenues for staff to raise concerns and receive feedback on any action taken
- Allow staff to take the matter further if they are dissatisfied with the Council’s response
- Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith

There are existing procedures in place to enable staff to lodge a grievance relating to their employment. This Whistleblowing Guide is intended to cover concerns that fall outside the scope of other procedures.

### **1.3 Safeguards**

#### **1.3.1 Prevention of Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when concerns are raised in good faith. This does not mean that if staff who whistleblow are already the subject of disciplinary or other employment related procedures, that those procedures will be halted.

#### **1.3.2 Confidentiality**

Whilst the Council gives an assurance that it will not tolerate the harassment or victimisation of anyone raising a genuine concern, it recognises that nonetheless an individual may want to raise a concern in confidence under this policy. The Council will do its best to protect the identity of staff who whistleblow and who do not want their name to be disclosed. However, in some circumstances the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

#### **1.3.3 Anonymous Allegations**

This Guide encourages staff to put their name to any allegation they may make. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Internal Audit Manager (in consultation with other Officers as appropriate). In exercising the discretion, the factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

**Eastbourne Borough Council**  
**ANTI FRAUD AND CORRUPTION POLICY**  
**Appendix A**

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#### **1.3.4 Untrue Allegations**

No action will be taken against staff who make allegations in good faith but which are not confirmed by the investigation. Disciplinary action however may be taken in cases where false or malicious allegations are raised.

### **1.4 How to Raise a Concern**

The reporting route for concerns will depend on the seriousness and sensitivity of the issues and who is thought to be involved. Taking these factors into account staff may approach their Line Manager, their Head of Service, their Senior Head of Service, the Statutory Chief Finance Officer (Section 151 Officer), the Chief Executive or telephone the Internal Audit Manager on 5925. If deemed appropriate staff may invite their trade union or professional association to raise a matter on their behalf.

Concerns are better raised in writing giving the background, history and reason for the concern together with names, dates, places and as much information as possible. If staff do not feel able to put their concern in writing they can telephone or meet the officer they intend reporting to. Where appropriate arrangements can be made for disclosures outside normal working hours.

Staff are encouraged to express their concern at the earliest opportunity so that timely action can be taken.

Although staff will not be expected to prove the truth of an allegation, they should be able to demonstrate that there are sufficient grounds for the concern. If required, further advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit Manager.

### **1.5 How the Council Will Respond**

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- Be investigated internally by Management, Internal Audit or Corporate Fraud.

**Eastbourne Borough Council**  
**ANTI FRAUD AND CORRUPTION POLICY**  
**Appendix A**

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- Be referred to the Police
- Be referred to the external auditor
- Form the subject of an independent inquiry.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures, for example, discrimination issues, will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

All concerns received will be acknowledged in writing within five working days. Wherever possible the acknowledgement will:

- Indicate how the matter is proposed to be dealt with
- Give an estimate of how long it will take to provide a final response
- Advise whether any initial enquiries have been made
- Advise whether further investigations will take place, and if not, why not.

The amount of contact between the officers considering the issues and the staff member raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought.

When any meeting is arranged staff have the right, if they so wish, to be accompanied by a trade union or professional association representative or fellow worker who is not involved in the area of work to which the concern relates.

The Council will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if staff are required to give evidence in criminal or disciplinary proceedings, advice about the procedure will be given.

The Council does recognise that an officer under investigation is entitled to advice. Contact with the Human Resources Section is recommended.



## **1.6 How the Matter Can Be Taken Further**

This Guide is intended to provide staff with an avenue to raise concerns within the Council. The Council hopes that staff will be satisfied with the way their concerns are dealt with. If they are not, and if they feel it is right to take the matter outside the Council, the following are possible contact points:

- A local Council Member
- The External Auditor
- Relevant professional bodies or regulatory organisations
- A solicitor
- The Police.

In instances where staff do decide to take the matter outside the Council they must always ensure that, in the first instance, the Council has been given an opportunity to fully investigate the issues raised. The member of staff will also need to ensure that confidential information is not disclosed or that disclosure would be privileged. (Check with the contact point about that.)

## **1.7 Independent Advice**

If you are unsure whether to use this procedure or you want independent advice at any stage, you may contact:

- Your Union or Professional Association
- Public Concern at Work (020 7404 6609). This is an independent charity that provides free advice for members of staff who wish to express concerns about fraud or other serious malpractice
- The Audit Commission's Whistleblowers Hotline (0303 444 8346)

## **1.8 The Responsible Officer**

The Internal Audit Manager has overall responsibility for the maintenance and operation of this Guide. That officer maintains a record of concerns raised and the outcomes, but in a form which does not endanger confidentiality, and will report as necessary to the Council.

## **Whistleblowing Summary**

If you suspect fraud or corruption at the Council, please follow the following simple guidelines.

### **Do:**

- Make an immediate note of your concerns
- Convey your suspicions to someone with the appropriate authority and experience
- Deal with the matter promptly

### **Don't:**

- Do nothing
- Be afraid of raising your concerns
- Approach or accuse any individuals directly
- Try to investigate the matter yourself
- Convey your suspicions to anyone other than those with the proper authority

## **Rules for Making a Disclosure**

- Disclosures of information must be made in good faith
- You must believe the information to be substantially true
- You must not act maliciously or make false allegations
- You must not seek any personal gain.

## Appendix B

# **ANTI-MONEY LAUNDERING GUIDE**

FOR  
EMPLOYEES OF  
EASTBOURNE BOROUGH COUNCIL

## **Anti-Money Laundering Guide**

### **1.1 Introduction**

The Proceeds of Crime Act (POCA) 2002, the Terrorism Act 2006 and the Money Laundering Regulations 2007 place obligations on the Eastbourne Borough Council and its employees regarding suspected money laundering.

### **1.2 What is money laundering?**

The following constitute the act of money laundering:

- concealing, disguising, converting, transferring or removing criminal property from England and Wales, from Scotland or from Northern Ireland.
- being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
- acquiring, using or possessing criminal property.

“Criminal property” includes;

- proceeds of crime committed by a third party;
- possession of proceeds of crime (e.g. retention of monies from non-payment of income tax – however small the amount)

Under the POCA there are also secondary offences:

- failure to disclose any of the three primary offences;
- tipping off a suspect either directly or indirectly; and
- doing something that might prejudice an investigation e.g. falsifying a document.

### **1.3 Legal Implications**

As a minimum CiPFA recommends that Local Authorities:

- Make those staff most likely to be exposed to or suspicious of money laundering situations aware of the requirements and obligations placed on the organisation and on them as individuals, by the POCA and Terrorism Act.
- Give targeted training to those considered to be the most likely to encounter money laundering.
- Make arrangements to receive and manage the concerns of staff about money laundering and their suspicion of it, to make internal enquiries, and to make reports, where necessary, to the National Crime Agency (NCA).
- Establish internal procedures to help forestall and prevent money laundering.

The POCA applies to all persons in the UK in a personal and professional capacity and therefore **all** staff are required to comply with the reporting procedure set out below.

## **2.0 Disclosure Procedure**

### **2.1 Reporting**

If an employee has a suspicion that money laundering activity is taking, or has taken, place they must inform the Chief Finance Officer (in the role of Money Laundering Reporting Officer) immediately, either to discuss the suspicion or by using the appropriate form (attached).

The employee must not make any further enquiries into the matter and must not disclose or indicate their suspicions to the person suspected as this could be regarded as “tipping off” which is itself an offence.

## **2.2. Evaluation**

The Chief Finance Officer will evaluate the information disclosed to determine whether a report should be made to the National Crime Agency (NCA).

The Chief Finance Officer will, if appropriate, immediately report the matter to the NCA under the SARS regime (Suspicious Activity Reports) using one of the forms provided on their website [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk). It is an offence not to make such a disclosure as soon as practicable.

## **3.0 Client Identification Procedure**

3.1 The Client Identification Procedure must be used when the Council is carrying out relevant business and as part of this is:-

- a) forming a business relationship: or
- b) considering undertaking a one off transaction

and :-

- a) suspects a transaction involves money laundering; or
- b) a payment is to be made for a series of linked one off transactions involving total payment of £10,000 ( 15,000 Euro) or more.

Not all of the Council's business is "relevant" for the purposes of the legislation regarding client identification. Relevant services as defined by the legislation include investments, accountancy and audit services and the financial, company and property transactions undertaken by Property Services and Legal Services.

When these criteria are met the Client Identification Procedure must be followed before any business is undertaken.

3.2 If the business is being transacted with another public sector body then it must be ensured that there are signed, written instructions on the body's headed paper before any business is undertaken.

**Eastbourne Borough Council**  
**ANTI FRAUD AND CORRUPTION POLICY**  
**Appendix B**

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- 3.3 Where the business is not for a public sector body then additional evidence of identity should be sought, for example:
- Checking with the organisation's website to confirm their business address;
  - Conducting an on-line search via Companies House;
  - Seeking evidence from the key contact of their personal identity and position within the organisation.
- 3.4 If satisfactory evidence cannot be obtained then the relationship or transaction must not proceed further.
- 3.5 Client identification evidence and details of relevant transactions must be retained for at least five years in order that they may be used in any subsequent investigation by the authority into money laundering.

## Report of Suspicion

### CONFIDENTIAL

#### REPORT OF SUSPICION OF MONEY LAUNDERING

*Please complete this form and pass it to the Chief Finance Officer*

From:.....(name and post)

Department:.....

Telephone number:.....

#### DETAILS OF SUSPICION:

**Name(s) and address of person(s) involved and nature of business if a company.**

**Nature, value and timing of activity involved.** (e.g where, what, when and who)

**Nature of suspicions regarding such activity.** (Continue on separate sheet if necessary)



## Report of Suspicion

Has an investigation been undertaken (as far as you are aware?)

Yes or no:

☐

If yes, please give details:

Have you discussed your suspicions with anyone else?

Yes or no:

☐

If yes, please specify when, to whom and why the discussion was necessary:

## Report of Suspicion

Please include below and other information that you feel is relevant:

Signed:..... Dated:.....

***Please do not discuss the contents of this report with anyone you believe may be involved in the suspected money laundering activity. To do so may constitute "tipping off" which is an offence under the Proceeds of Crime Act 2002.***

## Report of Suspicion

### **FOR COMPLETION BY THE CHIEF FINANCE OFFICER**

Date of receipt of report: .....

Date receipt of report acknowledged: .....

Consideration of report of suspicion.

Are there reasonable grounds for suspecting money-laundering activity?

## Report of Suspicion

Will a report be made to the NCA? Yes / No

☐

### **REPORT MADE TO NCA**

Date report sent: .....

#### **Details of liaison with NCA regarding the report:**

Notice period.....to .....

Moratorium period .....to .....

Is consent required from NCA for ongoing or imminent transactions which would otherwise be prohibited acts?

Yes / No

☐

If yes, give details below:

Date consent received: .....

Date consent passed on to employee: .....

## Report of Suspicion

If there are reasonable grounds to suspect money laundering but there is not intention to report the matter to NCA, please give reasons for non-disclosure below:

Date consent given to employee for prohibited act transactions to continue: .....

Any other relevant information:

Signed: ..... Dated: .....

**THIS RECORD TO BE RETAINED FOR AT LEAST FIVE YEARS.**